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PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No:	**09/593,914** **Confirmation No: 8319**
Date Filed:	June 14, 2000
Application Title:	Probes, Probe Sets, Methods And Kits Pertaining To The Detection, Identification And/Or Enumeration Of Yeast; Particularly In Wine
Applicants:	Hyldig-Nielsen et al.
Group Art Unit:	1634
Examiner:	C. Myers
Action Date:	February 25, 2003
Action Type:	Third Office Action On Merits - FINAL
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37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop: AF, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 22nd day of August, 2003.

Brian D. Gildea
Reg. No. 39,995

Commissioner for Patents
Dear Sir or Madam:

A petition for an automatic three-month extension of time has been included with the papers accompanying this document so please consider the following response to the Office Action mailed on February 25, 2003. With the extension, a timely response is now due on or before August 25, 2003.

I. ACTION SUMMARY

Claims 1-8, 10-12, 16, 18, 19, 21-26, 29, 32, 34, 46-49, 61,62, and 80-87 stand pending in this application. The Examiner has maintained a restriction requirement with respect to claims 10, 11, 21, 22, 34, 61 and 62. Claims 1-8 and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kosse (reference DF) in view of

Stender (1998; WO98/15648; reference BB). Claims 47-49 and 80-85 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kosse (reference DF) in view of Stender (1998; WO98/15648; reference BB) and in further view of Parton (US 5,905,038). Claims 1-8, 10-12, 16, 18-19, 21-26, 29, 32, 33, 46, 60-62, 86 and 87 stand rejected under 35 U.S.C. §103(a) as being unpatentable over De Wachter (GeneBank Accession No. x58052) in view of Kosse (reference DF) in view of Stender (1998; WO98/15648; reference BB). Claims 47-49 and 80-85 stand rejected under 35 U.S.C. §103(a) as being unpatentable over De Wachter in view of Kosse (reference DF) and Stender (1998; WO98/15548; reference BB) in view of Parton (US 5,905,038). No claim stands allowed.

II. FORMALITIES

1. Applicants reiterate their acknowledgement of the Examiner's FINAL decision with respect to the restriction requirement applying to claims 10, 11, 21, 22, 34, 61 and 62. No claims have been amended or canceled as Applicants have filed, with the papers accompanying this response, a petition under 37 C.F.R. § 1.144 for reconsideration of this decision. Accordingly, Applicants continue to traverse this decision by the Examiner and stand ready to appeal any adverse decision to the Board of Patent Appeals and Interferences.

2. During review of the response Applicants submitted on December 6, 2002 it was observed that no claim 22 was represented in Appendix A although the claim was not canceled. There was no intention to cancel claim 22 and indeed the Examiner has indicated that claim 22 stands pending but rejected in the present Office Action. The amendment set forth below is believed to comply with current rules of amendment practice and is presented only to include claim 22 that was inadvertently not stated in the Appendix of the prior response.

3. As a precautionary matter, a Notice Of Appeal has accompanied this response.